

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

FIRST-CLASS MAIL AND PERIODICALS SERVICE STANDARD
CHANGES, 2021

Docket No. N2021-1

**NOTICE OF UNITED STATES POSTAL SERVICE OF FILING OF
LIBRARY REFERENCES LR-N2021-1-20 – 26 & LR-N2021-1-NP9 – NP10
(May 26, 2021)**

The Postal Service hereby gives notice of filing of the following library references
in this proceeding:

Docket No. N2021-1 Master Library Reference Lists -- Public and Non-Public

Public

	<u>Title</u>	<u>Witness</u>
LR-N2021-1-20	First-Class Mail Pieces Impacted by Product Type	Monteith
LR-N2021-1-21	19 Percent Input	Monteith
LR-N2021-1-22	TRACS Floor Space Utilization Trends	Cintron
LR-N2021-1-23	Hagenstein Material Provided in Response to Presiding Officer's Information Request No. 3	Hagenstein
LR-N2021-1-24	Hagenstein Material Provided in Response to APWU Interrogatory	Hagenstein
LR-N2021-1-25	Material Provided in Response to Presiding Officer's Information Request No. 3, Question 5	Whiteman
LR-N2021-1-26	Steps in Projecting Transportation Costs by Mode	Owens

Non-Public

	<u>Title</u>	<u>Witness</u>
LR-N2021-1-NP9	Nonpublic Material Provided in Response to Presiding Officer's Information Request No. 3, Question 15	Hagenstein
LR-N2021-1-NP10	Nonpublic Material Provided in Response to Presiding Officer's Information Request No. 3, Question 5	Whiteman

The materials for these public and non-public Library References have been uploaded to the Public and Non-Public Library References folders on the United States Postal Service Secure Large File Transfer Web Application portal (USPS SLFT). The materials filed with the Library References listed above fall within Category 4 (material provided in response to discovery).

As indicated, LR-N2021-1-25, LR-N2021-1-NP9, and LR-N2021-1-NP10 respond to the Presiding Officer's Information Request No. 3, filed on May 19, 2021. USPS-LR-N2021-1-NP9 includes commercially sensitive information regarding network information regarding specific facilities and origin-destination pairs similar to that submitted in USPS-LR-N2021-1-NP3. Attached to the Postal Service's Notice of Filing of USPS-LR-N2021-1-NP3, submitted May 10, 2021, was the Application for Non-Public Treatment of this type of non-public material, which is hereby incorporated by reference.

USPS-LR-N2021-1-NP10 includes commercially sensitive information regarding projections of the financial effects of future competitive product volume growth and price changes. An Application for Non-Public Treatment relating to this information is attached to this notice.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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APPLICATION OF THE UNITED STATES POSTAL SERVICE FOR NON-PUBLIC TREATMENT

In accordance with 39 C.F.R. § 3011.201, the United States Postal Service (Postal Service) hereby applies for non-public treatment of certain materials filed under seal with the Commission. The materials covered by this application consist of projections of the financial effects of volume growth and price changes for competitive products in response to question 5 of Presiding Officer's Information Request No. 3, submitted within USPS-LR-N2021-1-NP3.

The Postal Service hereby furnishes the justification required for this application by 39 C.F.R. § 3011.201 below.

(1) The rationale for claiming that the materials are non-public, including the specific statutory provision(s) supporting the claim, and an explanation justifying application of the provision(s) to the materials

The materials designated as non-public consist of projections about the financial effects of competitive product volume growth and price changes, which under good business practices would not be disclosed publicly. Based on its long-standing and deep familiarity with postal and communications business and markets generally, and its knowledge of many firms, including competitors, mailers, and suppliers, the Postal Service does not believe that any commercial enterprise would voluntarily publish detailed information pertaining to its competitive volume and price forecasts. In the Postal Service's view, this information would be exempt from mandatory disclosure pursuant to 39 U.S.C. § 410(c)(2) and 5 U.S.C. §§ 552(b)(3).¹

¹ In appropriate circumstances, the Commission may determine the appropriate level of confidentiality to be afforded to such information after weighing the nature and extent of the likely commercial injury to the Postal Service against the public interest in maintaining the financial transparency of a government establishment competing in commercial markets. 39 U.S.C. § 504(g)(3)(A). The Commission has indicated that "likely commercial injury" should be construed broadly to encompass other types of injury, such as harms to privacy, deliberative process, or law enforcement interests. PRC Order No. 4679, Order Adopting Final Rules Relating to Non-Public Information, Docket No. RM2018-3 (June 27, 2018) at 16 (reconfirming that

(2) A statement of whether the submitter, any person other than the submitter, or both have a proprietary interest in the information contained within the non-public materials, and the identification(s) specified in paragraphs (b)(2)(i) through (iii) of this section (whichever is applicable). For purposes of this paragraph, identification means the name, phone number, and email address of an individual.

The Postal Service has a proprietary interest in the information contained within the non-public materials. The Postal Service designates Jacob Howley to accept actual notice of a motion related to the non-public material or notice of the pendency of a subpoena or order requiring production of the materials. Mr. Howley's email address is jacob.d.howley@usps.gov, and his telephone number is 202-268-8917.

(3) A description of the information contained within the materials claimed to be non-public in a manner that, without revealing the information at issue, would allow the Commission to thoroughly evaluate the basis for the claim that the information contained within the materials are non-public.

USPS-LR-N2021-1-NP10 includes the Postal Service's response to question 5 of Presiding Officer's Information Request No. 3. It consists of a spreadsheet showing detailed assumptions underlying certain financial forecasts, including, in particular, projected financial effects of assumed competitive product volume growth and price changes. Other data has been redacted from the corresponding public library reference (USPS-LR-N2021-25) to the extent that disclosure of such data would allow a reader to discern the data at issue here.

(4) Particular identification of the nature and extent of the harm alleged and the likelihood of each harm alleged to result from disclosure.

If the information the Postal Service determined to be protected from disclosure due to its sensitive nature were to be disclosed publicly, the Postal Service considers it quite likely that it would suffer commercial harm. This information is clearly commercially

the adopted final rules do not alter this long-standing practice); PRC Order No. 194, Second Notice of Proposed Rulemaking to Establish a Procedure for According Appropriate Confidentiality, Docket No. RM2008-1, Mar. 20, 2009, at 11.

sensitive to the Postal Service, and the Postal Service does not believe that it would be disclosed under good business practice. In this regard, the Postal Service is not aware of any business with which it competes (or in any other commercial enterprise), either within industries engaged in the carriage and delivery of materials and hard copy messages, or those engaged in communications generally, that would disclose publicly information and data of comparable nature.

(5) At least one specific hypothetical, illustrative example of each alleged harm.

Harm: Public disclosure of projections about the financial effects of competitive product volume growth and price changes would give competitors asymmetrical insight into the Postal Service's business plans.

Hypothetical: A competing package delivery provider or its representative obtains a copy of the unredacted version of Library Reference USPS-LR-N2021-1-NP10. The competitor learns of the Postal Service's current plans for future competitive product pricing or volume acquisition and, correlating such data with its own market intelligence, plans its marketing and pricing strategy accordingly. Lacking comparable insight into its competitors' volume projections and pricing plans, the Postal Service faces a competitive handicap.

Harm: Public disclosure of projections about the financial effects of competitive product volume growth and price changes would give customers of competitive products asymmetrical insight into the Postal Service's business plans.

Hypothetical: A major package shipper or its representative obtains a copy of the unredacted version of Library Reference USPS-LR-N2021-1-NP10. The shipper learns of the Postal Service's current plans for future competitive product pricing and, correlating such data with its own market intelligence, demands more concessions in negotiated service agreement negotiations than it otherwise would, and otherwise structures its own purchasing plans accordingly. As a result, the

Postal Service is unable to maximize revenue from that customer.

(6) The extent of protection from public disclosure deemed to be necessary.

The Postal Service maintains that the portions of the materials filed non-publicly should be withheld from persons involved in competitive decision-making in the relevant markets for competitive delivery products, as well as their consultants and attorneys. Additionally, the Postal Service believes that actual or potential customers of the Postal Service should not be provided access to the non-public materials.

(7) The length of time deemed necessary for the non-public materials to be protected from public disclosure with justification thereof; and

The Commission's regulations provide that non-public materials shall lose non-public status ten years after the date of filing with the Commission, unless otherwise provided by the Commission. 39 C.F.R. § 3011.401(a). The Postal Service seeks full protection during this time period and thereafter.

(8) Any other factors or reasons relevant to support the application.

None.

Conclusion

For the reasons discussed, the Postal Service asks that the Commission grant its application for non-public treatment of the identified materials.